



General Assembly

January Session, 2013

***Raised Bill No. 6472***

LCO No. 3461



Referred to Committee on ENERGY AND TECHNOLOGY

Introduced by:  
(ET)

***AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED  
CLEAN ENERGY PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16a-40g of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section:

4 (1) "Energy improvements" means (A) participation in a district  
5 heating and cooling system by qualifying commercial real property,  
6 (B) any renovation or retrofitting of qualifying commercial real  
7 property to reduce energy consumption, or (C) installation of a  
8 renewable energy system to service qualifying commercial real  
9 property, provided such renovation, retrofit or installation described  
10 in subparagraphs (B) and (C) of this subdivision is permanently fixed  
11 to such qualifying commercial real property;

12 (2) "Qualifying commercial real property" means any commercial or  
13 industrial property, regardless of ownership, that meets the

14 qualifications established for the commercial sustainable energy  
15 program;

16 (3) "Commercial or industrial property" means any real property  
17 other than a residential dwelling containing less than five dwelling  
18 units;

19 (4) "Benefitted property owner" means an owner of qualifying  
20 commercial real property who desires to install energy improvements  
21 and provides free and willing consent to the benefit assessment against  
22 the qualifying commercial real property;

23 (5) "Commercial sustainable energy program" means a program that  
24 facilitates energy improvements and utilizes the benefit assessments  
25 authorized by this section as security for the financing of the energy  
26 improvements;

27 (6) "Municipality" means a municipality, as defined in section 7-369;

28 (7) "Benefit assessment" means the assessment authorized by this  
29 section;

30 (8) "Participating municipality" means a municipality that has  
31 entered into a written agreement, as approved by its legislative body,  
32 with the authority pursuant to which the municipality has agreed to  
33 assess, collect, remit and assign, benefit assessments to the authority in  
34 return for energy improvements for benefitted property owners within  
35 such municipality and costs reasonably incurred in performing such  
36 duties; and

37 (9) "Authority" means the Clean Energy Finance and Investment  
38 Authority.

39 (b) (1) The authority shall establish a commercial sustainable energy  
40 program in the state, and in furtherance thereof, is authorized to make  
41 appropriations for and issue bonds, notes or other obligations for the  
42 purpose of financing, (A) energy improvements; (B) related energy

43 audits; (C) renewable energy system feasibility studies; and (D)  
44 verification reports of the installation and effectiveness of such  
45 improvements. The bonds, notes or other obligations shall be issued in  
46 accordance with legislation authorizing the authority to issue bonds,  
47 notes or other obligations generally. Such bonds, notes or other  
48 obligations may be secured as to both principal and interest by a  
49 pledge of revenues to be derived from the commercial sustainable  
50 energy program, including revenues from benefit assessments on  
51 qualifying commercial real property, as authorized in this section.

52 (2) When the authority has made appropriations for energy  
53 improvements for qualifying commercial real property or other costs  
54 of the commercial sustainable energy program, including interest costs  
55 and other costs related to the issuance of bonds, notes or other  
56 obligations to finance the appropriation, the authority may require the  
57 participating municipality in which the qualifying commercial real  
58 property is located to levy a benefit assessment against the qualifying  
59 commercial real property especially benefited thereby.

60 (3) The authority (A) shall develop program guidelines governing  
61 the terms and conditions under which state financing may be made  
62 available to the commercial sustainable energy program, including, in  
63 consultation with representatives from the banking industry,  
64 municipalities and property owners, developing the parameters for  
65 consent by existing mortgage holders and may serve as an aggregating  
66 entity for the purpose of securing state or private third-party financing  
67 for energy improvements pursuant to this section, (B) shall establish  
68 the position of commercial sustainable energy program liaison within  
69 the authority, (C) shall establish a loan loss reserve or other credit  
70 enhancement program for qualifying commercial real property, (D)  
71 may use the services of one or more private, public or quasi-public  
72 third-party administrators to administer, provide support or obtain  
73 financing for the commercial sustainable energy program, and (E) shall  
74 adopt standards to ensure that the energy cost savings of the energy  
75 improvements over the useful life of such improvements exceed the

76 costs of such improvements.

77 (c) Before establishing a commercial sustainable energy program  
78 under this section, the authority shall provide notice to the electric  
79 distribution company, as defined in section 16-1, that services the  
80 participating municipality.

81 (d) If a benefitted property owner requests financing from the  
82 authority for energy improvements under this section, the authority  
83 shall:

84 (1) Require performance of an energy audit or renewable energy  
85 system feasibility analysis on the qualifying commercial real property  
86 that assesses the expected energy cost savings of the energy  
87 improvements over the useful life of such improvements before  
88 approving such financing;

89 (2) If financing is approved, require the participating municipality  
90 to levy a benefit assessment on the qualifying commercial real  
91 property with the property owner in a principal amount sufficient to  
92 pay the costs of the energy improvements and any associated costs the  
93 authority determines will benefit the qualifying commercial real  
94 property;

95 (3) Impose requirements and criteria to ensure that the proposed  
96 energy improvements are consistent with the purpose of the  
97 commercial sustainable energy program;

98 (4) Impose requirements and conditions on the financing to ensure  
99 timely repayment, including, but not limited to, procedures for placing  
100 a lien on a property as security for the repayment of the benefit  
101 assessment; and

102 (5) Require that the property owner provide written notice, not less  
103 than thirty days prior to the recording of any lien securing a benefit  
104 assessment for energy improvements for such property, to any existing

105 mortgage holder of such property, of the property owner's intent to  
106 finance such energy improvements pursuant to this section.

107 (e) (1) The authority may enter into a financing agreement with the  
108 property owner of qualifying commercial real property. After such  
109 agreement is entered into, and upon notice from the authority, the  
110 participating municipality shall place a caveat on the land records  
111 indicating that a benefit assessment and lien is anticipated upon  
112 completion of energy improvements for such property.

113 (2) The authority shall disclose to the property owner the costs and  
114 risks associated with participating in the commercial sustainable  
115 energy program established by this section, including risks related to  
116 the failure of the property owner to pay the benefit assessment. The  
117 authority shall disclose to the property owner the effective interest rate  
118 of the benefit assessment, including fees charged by the authority to  
119 administer the program, and the risks associated with variable interest  
120 rate financing. The authority shall notify the property owner that such  
121 owner may rescind any financing agreement entered into pursuant to  
122 this section not later than three business days after such agreement.

123 (f) The authority shall set a fixed or variable rate of interest for the  
124 repayment of the benefit assessment amount at the time the benefit  
125 assessment is made. Such interest rate, as may be supplemented with  
126 state or federal funding as may become available, shall be sufficient to  
127 pay the financing and administrative costs of the commercial  
128 sustainable energy program, including delinquencies.

129 (g) Benefit assessments levied pursuant to this section and the  
130 interest, fees and any penalties thereon shall constitute a lien against  
131 the qualifying commercial real property on which they are made until  
132 they are paid. Such lien shall be levied and collected in the same  
133 manner as the property taxes of the participating municipality on real  
134 property, including, in the event of default or delinquency, with  
135 respect to any penalties, fees and remedies and lien priorities. Each

136 such lien may be continued, recorded and released in the manner  
137 provided for property tax liens, subject to the consent of existing  
138 mortgage holders, and shall take precedence over all other liens or  
139 encumbrances except a lien for taxes of the municipality on real  
140 property, which lien for taxes shall have priority over such benefit  
141 assessment lien.

142 (h) Any participating municipality may assign to the authority any  
143 and all liens filed by the tax collector, as provided in the written  
144 agreement between the participating municipality and the authority.  
145 The authority may sell or assign, for consideration, any and all liens  
146 received from the participating municipality. The consideration  
147 received by the authority shall be negotiated between the authority  
148 and the assignee. The assignee or assignees of such liens shall have and  
149 possess the same powers and rights at law or in equity as the authority  
150 and the participating municipality and its tax collector would have had  
151 if the lien had not been assigned with regard to the precedence and  
152 priority of such lien, the accrual of interest and the fees and expenses  
153 of collection. The assignee shall have the same rights to enforce such  
154 liens as any private party holding a lien on real property, including,  
155 but not limited to, foreclosure and a suit on the debt. Costs and  
156 reasonable attorneys' fees incurred by the assignee as a result of any  
157 foreclosure action or other legal proceeding brought pursuant to this  
158 section and directly related to the proceeding shall be taxed in any  
159 such proceeding against each person having title to any property  
160 subject to the proceedings. Such costs and fees may be collected by the  
161 assignee at any time after demand for payment has been made by the  
162 assignee.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	16a-40g
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***Statement of Purpose:***

To amend the definition of energy improvements to include the participation in a district heating and cooling system by a qualifying commercial real property.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*